

Appl. No. 10/697,465
Reply dated October 08, 2005
Reply to Office Action of June 09, 2005

Remarks

Claims 1-22 are pending. Claims 1-10 are shown as "withdrawn" status due to restriction requirement and Applicants affirm the election of Group II claims 11-22 made during a telephone conversation with Examiner Jeremy Pierce on May 25, 2005. Applicants reserve the right to prosecute the withdrawn claims in this or a continuing application, as appropriate. Please amend claims 11 and 17 as shown on the attached claims listing. Support for the amendment to claims 11 and 17 may be found in the Application Specification at page 3, line 7; page 7, line 23; and claim 1 as originally filed, for example.

Applicants thank Examiner Pierce for including in the Office Action mailed June 09, 2005 signed copies of the initialed Forms PTO-1449 sent with Applicants' Information Disclosure Statement (IDS) mailed January 24, 2004.

Pursuant to 37 C.F.R. § 1.111, reconsideration of the present application in view of the foregoing amendments and following remarks is respectfully requested.

By way of Paragraph 6 of the Office Action mailed June 09, 2005, the claims were rejected under 35 U.S.C. § 112 because claims 11 and 17 contain the term "substantially uniform basis weight". It was asked whether basis weight was equated with density and clarification was requested as to the meaning of this claim term. By way of explanation, Applicants wish to direct attention to the "BACKGROUND" section of the Application Specification and particularly the discussion of the prior art materials on page 2, line 24 through page 3 line 2. The extensible nonwoven webs disclosed by Kauschke et al. in U.S. Pat. No. 6,319,455 are discussed therein. These nonwoven webs are produced by having alternating heavy and light stripes in the web (rather than having a web with a uniform basis weight). That is, the webs taught by Kauschke et al. have a repeating pattern of higher and lower basis weight areas across the material. However, to be true to the language used by Kauschke et al., this is described in U.S. Pat. No. 6,319,455 as high "density" and low "density" strips. It is explained by Kauschke et al. that the term "density" in that regard is actually intended to identify basis weight (weight/area) and not density (weight/volume) (please see Kauschke et al. at col. 6 lines 12-15 where it is stated, "It will be appreciated that, as used herein and in claims, the term "density" is used in terms of weight per unit area (rather than weight per unit

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volume) and thus is proportional to thickness where the weight per cross-sectional unit is uniform.").

Therefore, Applicants submit that the term "substantially uniform basis weight" in the claims and in their Specification describes only basis weight (i.e., weight per unit area) and does not refer to density (weight per unit volume), and the phrase "high density and low density strips" in the BACKGROUND and in the portion of Applicants' EXAMPLE section cited in the Office Action is used for the purpose of distinguishing the previously known CD extensible materials which used the term "density" interchangeably with "weight per unit area".

By way of Paragraph 9 of the Office Action mailed June 09, 2005, the claims 11-22 were rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 5,804,021 to Abuto et al. (hereinafter "Abuto et al.") or alternatively under 35 U.S.C. § 103(a) as allegedly being obvious to one of ordinary skill in the art at the time the invention was made and thus unpatentable over Abuto et al. This rejection is hereby **traversed** to the extent it may apply to the currently presented claims.

The invention as claimed in claim 11 is drawn to an as-formed cross machine direction extensible nonwoven web including continuous thermoplastic fibers and a plurality of thermal bond points in a pattern. The continuous thermoplastic fibers have an average diameter greater than about 10 microns, the nonwoven web has a substantially uniform basis weight, and the force required to extend the bonded nonwoven web 30 percent in the cross machine direction is less than about 60 percent of the cross machine direction peak tensile force of the bonded nonwoven web. The invention as claimed in claim 17 is drawn to an as-formed cross machine direction extensible nonwoven web including continuous thermoplastic fibers and a plurality of thermal bond points in a pattern. The continuous thermoplastic fibers have an average diameter greater than about 10 microns, the nonwoven web has a substantially uniform basis weight, and the force required to extend the bonded nonwoven web 30 percent in the cross machine direction is less than about 30 percent of the force required to extend the web to 30 percent in the machine direction.

As stated above and as noted in the Application Specification at page 2, lines 31-34, there is a need for cross machine direction extensible nonwoven web materials which exhibit the

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cross machine direction extensibility without the requirement of having had one or more post-processing steps applied to the nonwoven web material to create extensibility. The nonwoven web facing layer taught by Abuto et al. and cited in the Office Action is an example of a post-processed web wherein the extensibility is increased due to the post-processing operation (in this case, the creation of slit apertures in the web). In order to clarify this distinction, independent claims 11 and 17 now require that the web of itself, as it is made, is capable of the cross machine direction extensibility, rather than being a web such as taught in Abuto et al. having additional elements such as the slits to provide extensibility.

In addition, the Office Action states that several other requirements of Applicants' claims 11-13 and 17-19 (relating to the amount of force required to extend the bonded nonwoven web 30 percent in the cross machine direction) can be presumed to be inherent in the materials taught by Abuto et al. owing to the use of similar materials and similar production steps. However, as described above, Applicants point out that the production steps are dissimilar, rather than similar, with the materials taught by Abuto et al. being subjected to a post-processing step to impart slit apertures into the web. Therefore, at least half of the basis for the presumption of inherency (similar process steps) is not correct. In addition, the Office Action states that Applicants' claims requirements relating to the force to extend their web 30 percent in the cross machine direction are, if not inherent, then obvious from the description in Abuto et al. at col. 11, line 64 through col. 12, line 56 where it is taught how to vary the stretching capability of the fabric. However, Applicants point out that this section of Abuto et al. relied upon in the Office Action teaches how to vary the stretching capability of the fabric in the machine direction, and does not give alternate methods for varying or increasing the extension in the cross machine direction (other than through the imposition of the above-noted slits). Please note especially col. 11, line 64-66 where it is stated, "it may be desirable to have an elastic laminate with greater stretch in the machine direction A--A than can be achieved by a plurality of slits" (emphasis is added). This portion then goes on to describe a means for providing greater machine direction A--A stretch than the slits alone can provide.

Therefore, because the Abuto et al. does not teach (or, alternatively, suggest) all of the parameters or elements of Applicants' claims, Applicants respectfully submit that the

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rejection of claims 11-22 under 35 U.S.C. §102(b) (alternatively under 35 U.S.C. § 103(a)) should be withdrawn. For the reasons stated above, it is respectfully submitted that all of the claims are in form for allowance and favorable action thereon is respectfully requested. The Examiner is encouraged to call the undersigned at his convenience to resolve any remaining issues.

The undersigned may be reached at: 770-587-8908.

Respectfully submitted,

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CERTIFICATE OF FACSIMILE TRANSMISSION

I, Robert A. Ambrose, hereby certify that on October 8, 2005, this document is being faxed to the United States Patent and Trademark Office, central facsimile machine at (571) 273-8300.

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